THE UNIVERSITY OF MICHIGAN
SCHOOL OF PUBLIC HEALTH
DEPARTMENT OF ENVIRONMENTAL HEALTH SCIENCES

109 S. OBSERVATORY STREET
ANN ARBOR, MICHIGAN 48109-2029
PHONE: 734 764-3188 FAX: 734 936-7283
WEB SITE: http://www.sph.umich.edu/ehs/

December 17, 2003

Justices of the Michigan Supreme Court
Supreme Court Clerk
P.O. Box 30052
Lansing, Michigan 48909
(MSC_clerk@courts.mi.gov)

Re: Proposed Court Rule #2003-47

Dear Sir or Madame:

I am writing to you concerning the proposed court rule (#2003-47) that would establish an Inactive Asbestos Docketing System in Michigan. Although I believe the concept of an Inactive Asbestos Docketing System has merit, I wish to voice my objection to the overly strict medical criteria (the ABA criteria) that have been proposed for the system. Before discussing the details of my opinion, I wish to summarize my background and expertise on this subject:

Licensed to practice medicine in Michigan since 1989;
Professor of Occupational Medicine and Director of the Occupational Medicine Program at the University of Michigan School of Public Health;
Board Certified in Occupational & Environmental Medicine
Board Certified in Internal Medicine
Certified B Reader
Fellow of the American College of Occupational and Environmental Medicine

In addition, I am currently the Principal Investigator of a federally-funded research project focused on use of chest radiographs for screening for pneumoconiosis ("Evaluation of Digital Chest Radiographs for Pneumoconioses", Project # S2200-22/22).

Given the imperfections in the asbestos litigation system as they currently exist, it makes some sense to defer suits of claimants who currently have no impairment so that others may move forward to receive more timely, appropriate and fuller compensation. However, the medical criteria proposed for determining which cases could go forward, and which would be entered into an Inactive Asbestos Docketing System, are too inflexible and therefore unjust.

Though possibly only a minority of claimants, there will be numerous cases with asbestos-related disease and impairment who would not meet the proposed criteria (even

with the "backstop" provision) and who would be inappropriately and unfairly entered into an Inactive Asbestos Docketing System. In addition, the total reliance on standard chest radiography, and the exclusion of chest computed tomography (chest CT), particularly high resolution chest CT, fails to reflect the standard of medical practice for non-invasive assessment of interstitial lung disease in Michigan. The absence of consideration of diffusion capacity as part of pulmonary function testing for assessment of impairment is also disturbing.

I am not prepared to offer alternative medical criteria for determining assignment of cases to an Inactive Asbestos Docketing System at this time, but the current proposal is seriously flawed, and should not be adopted.

Please feel free to contact me if you have any questions about my comments. I would be very interested in discussing them with you.

Sincerely,

Alfred Franzblau, MD
Professor of Occupational Medicine